The Return of Virtue to Ethical Medical Decision Making

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Abstract

For the past several decades, ethical deliberation in medicine has been dominated by "principlism," an ethical method that relies on a set of principles or rules that are variable and applied inconsistently. This approach overlooks the moral agent, separates the ethical decisions from the moral sensibilities that shaped them, isolating the decisions from the moral actor. Ethics, being a human endeavor, cannot ignore the moral agent. I propose a practical approach to the ethical dilemma that combines virtue with principles.

The Ethics of Virtue

Virtue is defined by Aristotle as competence in the pursuit of excellence.[1] For Aristotle the virtuous man is principled, and his ultimate *telos* is to become a man of excellence, thereby attaining happiness.[2] Happiness resides in full human flourishing, is the chief good for man, and can be secured in whatever life is most satisfying.[3] Man's virtue is linked with action. Virtue is acquired by doing virtuous acts; and enhanced by repetition of virtuous acts. This activity results in a virtuous disposition, a habit.[4] Virtue and the virtuous person—that is, the person practiced and adept at finding moral goodness in real situations—are an intrinsic part of moral behavior.

Thomas Aquinas, a philosopher and theologian of the thirteenth century, expanded on Aristotle's theory of morality. Aquinas defined

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virtue as moral excellence based on right action and right thinking, which produce goodness of character.[5] Habits are distinguished in terms of good and evil; good habits are virtues.[6] The virtuous person enjoys choosing the virtuous act; the purpose of virtue is to achieve happiness.[7]

Aquinas based his theory of morality on the natural law, which is grounded on the nature of human beings. "Morality is governed by a law built into the nature of man and knowable by reason."[8] All things to which people have a natural inclination as apprehended by reason are considered to be good: the preservation of life, the propagation of the species, the pursuit of truth, and living in society. The purpose of the natural law is to drive man to reach for the good and reject evil. Because natural law is based on human nature and appreciated through reason, human nature being the same everywhere, moral law is the same for all men. Aquinas declared that natural, or moral, law is morally binding and universal because it is grounded in reason, a quality possessed by all men.[9] Aquinas's moral law is based on metaphysics. He believed that the purposeful organization of the universe, and the eternal law from which the moral law comes, is the work of the Creator.[10]

Virtue ethics places moral worth on the rightness of an action driven by duties and obligations and the goodness of the person who selects such obligations and rules[11] Modern day philosophers have re-established virtue ethics as a credible ethical theory. Alasdair Macintyre, with his book *After Virtue*, is probably largely responsible for restoring virtue ethics to its rightful place. He proposes a system based on virtue developed and enhanced through practices that are then converted into traditions of society. Practices require virtue, and practice will make one better at the virtue which will ultimately develop into a habit. This is what is normative, the virtuous habit that is developed will guide one's action.[12]

The virtues of the person are a reflection of the community; the virtues inherent to the practice of medicine are a reflection of the medical community The virtuous person follows a moral standard, a maxim that animates the human being to pursue the good and reject evil. The virtuous physician must be guided by the obligation he has towards his patient: the obligation to work for a good outcome in the doctor-patient encounter—to be of benefit to the patient and not to harm him.

The Hippocratic Tradition

The medical tradition of the Western world is traced to the ancient Greeks and the School of Hippocrates. The ancient Greek physician was both healer and executioner. Euthanasia was an accepted practice. One physician would heal, another would provide the poison draft to kill the patient. The Hippocratic School, a small group of Greek physicians almost five hundred years before Christ, initiated a change in this practice.[13] The Hippocratic Oath established a set of moral principles that

were to guide the practice of medicine. The original oath began with a covenant to the gods, followed by duties and obligations to teacher and to patients, and ended with a promise not to break the oath, under punishment of dishonor. The practice of medicine was declared a moral activity, the transcendence of the profession acknowledged. The physician declared a covenant with his patient to do good and not to do harm and to always act in a just way towards others. In time, the notion of the physician healer became the norm. The Hippocratic principles were embraced by the Judeo-Christian tradition. By the early Middle Ages, the Islamic tradition had also accepted the Hippocratic principles of moral medical practice.[14] The Hippocratic principles guided medical ethics through the Middle Ages up to present times.

The New Medical Profession

In the past few decades, astonishing gains in knowledge and sophisticated technology have transformed the practice of medicine and markedly increased the demands of the patient population on the profession. In the United States, a medical industry developed; and the physician was encouraged to join the marketplace. American physicians became medical practitioners; patients became their clients. The covenant based on trust began to be replaced by a business contract. One consequence was a rising distrust of the public for the profession and the ever more powerful medical industry.[15]

Classically, a profession was identified by the requirements of extensive study, a pledge to labor for the benefit of others, and a code of ethics. A new code of ethics, *A Physician Charter: Medical Professionalism in the New Millennium*, a statement issued in 2002, declared the fundamental principles of medical professionalism to be: 1) the primacy of patient care, 2) patient autonomy, and 3) social justice.[16] This code was approved by most American medical specialty organizations. The moral obligation of the physician, which is the basis of the doctor-patient encounter, is now based on respect for the autonomy of the individual patient. Contrast this view with the Hippocratic tradition. The Hippocratic Oath urges the physician to become a thoroughly integrated person, whose inner life is the same as his outward performance, who will keep himself pure in thought and action; an oath made in the presence of the gods acknowledging the transcendence of the medical profession.[17]

Medical Ethics in Practice

Ethics is a practical discipline; it is problem solving. It is part of everyday life, as human beings make choices and construct actions in response to an outside reality.[18] The ethical dilemma demands a decision. The physician and the patient must make a moral choice. Precisely because science and technology have produced many more possibilities

from which physicians and patients must choose, medical ethics has attained its present prominence in the practice of medicine.[19]

The "four principles approach," proposed by philosophers Tom L. Beauchamp and James F. Childress, is the ethical process most frequently applied in medical decision making today. The authors call their ethical theory a principle-based common morality, common morality defined as "the set of norms that all serious persons share."[20] Beauchamp and Childress claim that

> all persons serious about living a moral life grasp the core dimensions of morality. They know not to lie, not to kill or cause harm to innocent persons. To violate these norms without a morally good reason is immoral.... The common morality contains moral norms that bind all persons in all places.[21]

Beauchamp and Childress declare that moral medical decisions are based on the following four principles: 1) respect for autonomy, 2) nonmaleficence, 3) beneficence, and 4) justice. This set of principles is thought to reflect the values of the common morality. The principles are binding unless they conflict with one another. Principles in conflict provide an opportunity for compromise and negotiation. The conflict is settled by balancing the demands of one against the other and the consequences of either act. The physician may decide, based on rational judgment, that one outweighs and overrides the other. When this is the case, the ethicist must "form a considered opinion that one obligation is weightier in these circumstances than another."[22]

Beauchamp and Childress state "no norm is immune to revision."[23] With principles subject to change, moral deliberation becomes a case-specific, inconsistent process. We live in a morally heterogeneous society without a common view of human nature and of what it takes to live a life of excellence. Without a consistent moral foundation, the physician problem solver approaches the ethical dilemma with a set of rules that he may or may not choose to follow. The moral agent's virtue and character, intention and moral sensibilities are not part of the deliberation.

The Return of Virtue

The ends of medicine are the ends of the doctor-patient encounter: health, cure, and care. Three things about medicine as a human activity make it a moral enterprise: 1) the nature of illness; 2) the act of profession, that is, the nonproprietary nature of medical knowledge; and 3) the act of healing in the context of a professional oath. Such is Edmund Pellegrino's theory of medicine.[24] The immediate *telos* of the physician-patient encounter is helping and healing through the science and art of medicine.[25]

Virtues are a necessary ingredient of the medical encounter. Professional virtue is that disposition or trait of character that enables the individual to reach the goal of a specific (professional) activity. For every

profession there is a specific activity; for medicine the activity is healing.[26] According to James Drane, "Medical ethics must be firmly rooted in what is peculiar and characteristic of the work of medicine."[27] The virtues inherent to medical practice enable the physician to develop the habits that will lead him to choose the moral action. The virtues inherent to medical practice are: trust, benevolence, effacement of self-interest, compassion and caring, intellectual honesty, justice, and prudence or practical wisdom.[28]

Virtues are derived from principles, e.g., the virtue of benevolence is derived from the principle of being beneficent. Virtue and duty are both motivation for action. But virtue is more than merely a stimulus for the action. Virtue is an integral part of the character of the moral agent and is required for the right action to occur, e.g., one must be cultivated in the virtue of self-respect in order to act according to the principle of respect for self-determination.[29] On the other hand, duty is imposed from without.

Good character alone does not ensure that the right decision is made. Virtues must be linked to the obligations the physician owes his patient. The principles of beneficence, non-maleficence, autonomy, and justice represent obligations the physician has towards his patient; these serve to guide the act that results in the good outcome. The underlying ethical principle is beneficence, the duty of assisting others in need and avoiding harm. This principle is expressed by the Hippocratic maxim: Be of benefit and do no harm. The physician must act in the patient's best interest; any intentional harmful act is maleficent. An action that violates the patient's autonomy may be a maleficent act, since it may undermine the patient's humanity and disrespect the patient's capacity for reason and self-determination. Justice requires the physician to give the patient what is owed to him.[30] The doctor-patient relationship is grounded on these obligations and depends upon the virtues inherent to medical practice. Virtue ethics must be integrated into the internal morality of the health professions.[31]

The virtue and character of man rest on his moral human nature. Moral law provides an objective standard for right and wrong. The virtuous physician follows a moral standard, a maxim that animates the human being to pursue the good and reject evil. It is reasonable for man to cultivate the virtues and develop them into habits which guide his individual conduct toward the good.

The following clinical scenario illustrates how the combination of virtue with principles will lead to improved decision making by the physician with real-world consequences. JS is a fourteen-year-old girl who was admitted to a local hospital with the diagnosis of septic knee arthritis. She developed toxic shock, was transferred to the university hospital pediatric intensive care unit, and was diagnosed with staphylococcal sepsis, osteomyelitis of the femur, and bilateral pneumonia with pleural effusion. It was not possible to relieve the lung effusions with

thoracentesis or chest tubes. She is anemic. The next step is major surgery, decortication, which could involve significant blood loss. The child and her family are Jehovah's Witnesses. The child refuses the administration of blood or blood products. The surgeon is unwilling to operate without giving her blood.[32]

To exercise her autonomy, the patient must have the ability to use her free will and the capacity to make an informed decision. The moral agency of this fourteen-year-old child depends on her understanding the medical facts, and knowing the different outcomes depending on her decision. The ethics consultant concludes that the child is especially mature and comprehends the options and consequences clearly. This adolescent is making an informed choice to withhold a blood transfusion which may be life-saving. The decision appears to be free of influence and/or coercion from the child's family or the medical staff.

Options for the physician are to go the way of the court of law and force the blood transfusion on the child, or to respect the patient preference to withhold the transfusion. In ordering the blood transfusion through the court, the physician would cause the child to be in the best possible condition to tolerate surgery, a consequence of benefit with little risk. However, this action would violate the child's self-determination: a maleficent act. Agreeing to withhold the transfusion would respect the patient's autonomy but could result in harm. What is the right decision in this case? The medical decision of this ethical dilemma ought to go beyond following a set of rules. The thoughtful physician will seek the just action that is beneficent and will avoid harm. The principles of autonomy and beneficence demand that the child's self-determination be respected. The compassionate physician, giving of his time and skill, would pursue therapy options that would result in a successful medical outcome and at the same time respect the child's decision not to have a transfusion. An alternative course would be to search for a surgeon who would agree to do the procedure without the blood transfusion. The risks inherent to surgery without a blood transfusion must be discussed clearly with the patient and family. The virtues inherent to the practice of medicine add another dimension to the decision making and enable the physician to heal with excellence.

In sum, the ethics of medicine is the compendium of virtues, principles, and obligations needed to achieve the ends of the profession. The internal morality of the doctor-patient encounter faithful to the ends of medicine will enable the physician to make the right choice, with the good intention, and result in the act that produces the best consequence for the patient. The physician and the patient come together in an act of trust and caring; the covenantal relationship of trust between physician and patient is preserved. The virtuous physician will care for the health of his patient with practical wisdom, integrity, compassion, and self-effacement, placing the patient's interests above his own.

The restoration of the virtuous character of the physician who fulfills his obligations to his patient could herald the beginning of the healing process of the impaired relationship of the patient and the medical professional. As the moral commitment inherent to the doctor-patient encounter is restored, the patient will recognize the physician as his advocate, and trust will be regained. By going beyond principles and rules to the ethical medical decision achieved following a more comprehensive deliberation, the patient benefits from a better-informed solution to the ethical dilemma. The virtuous physician fulfills his healing mission with excellence; he will attain his maximal potential. The medical community and society will benefit from the recovered doctor-patient relationship.

Notes

[1] Aristotle, *The Nicomachean Ethics*, trans. W.D. Ross (Oxford: Oxford University Press, 1954), xxvi, referring to bk. 2, chs. 5 and 6.

[2] Louis P. Pojman, *Ethical Theory* (Belmont, CA: Wadsworth Publishing Co., 2007), 375–399, referring to bk. 1, ch. 9 of Aristotle's *Nicomachean Ethics*.

[3] Aristotle, *The Nicomachean Ethics*, xxvii, referring to bk. 1, chs. 7–8.

[4] Ibid., bk. 1 ch. 8, and bk. 2, chs. 1–3.

[5] Thomas Aquinas, *Treatise on the Virtues*, trans. John A. Oesterle (Notre Dame, IN: University of Notre Dame Press, 1984), xii, referring to q. 55, a. 4.

[6] Ibid., q. 55, a. 1.

[7] Ibid., xiv, xvi, referring to q. 55, a. 1.

[8] Charles E. Rice, *Fifty Questions on the Natural Law* (San Francisco, CA: Ignatius Press, 1999), 30.

[9] Pojman, *Ethical Theory*, 20–23.

[10] *Aquinas' Shorter Summa*, trans. Cyril Vollert (Manchester, NH: Sophia Institute Press, 2002), 110–111, 168.

[11] Pojman, *Ethical Theory*, 375–399.

[12] Alasdair MacIntyre, *After Virtue* (Notre Dame, IN: University of Notre Dame Press, 2003), 181–203.

[13] Vivian Nutton, "The Rise of Medicine," in *The Cambridge Illustrated History of Medicine*, ed. Roy Porter (Cambridge, UK: Cambridge University Press, 1996), 55, 58.

[14] Nigel M. de S. Cameron, *The New Medicine* (Chicago, IL: Bioethics Press, 2001), 23–44.

[15] Edmund D. Pellegrino and David C. Thomasma, *The Virtues in Medical Practice* (New York: Oxford University Press, 1993), 65, 73.

[16] ABIM Foundation, ACP–ASIM Foundation, and European Federation of Internal Medicine, "Medical Professionalism in the New Millennium: A Physician Charter," *Annals of Internal Medicine* 136 (2002): 243–246.

[17] Mary B. Adam, "Physician Unions: Guardians of the Covenant or Keepers of the Contract," in *The Changing Face of Health Care*, eds. John F. Kilner, Robert D. Orr, Judith A. Shelly (Grand Rapids, MI: Eerdmans Publishing Co., 1998), 245–251.

[18] James F. Drane, *Becoming a Good Doctor: The Place of Virtue and Character in Medical Ethics*, 2nd ed. (Lanham, MD: Rowman and Littlefield Publishers, Inc., 1995), 175, 181.

[19] Ibid., 183.

[20] Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics*, 5th ed. (New York: Oxford University Press, 2001), 3.

[21] Ibid.

[22] Ibid., 12, 401–408.

[23] Ibid., 408.

[24] Edmund D. Pellegrino, *The Philosophy of Medicine Reborn*, eds. H.T. Engelhardt and F. Jotterand (Notre Dame, IN: University of Notre Dame Press, 2008), 269.

[25] Ibid., 270.

[26] Pellegrino, *The Philosophy of Medicine Reborn*, 270–271.

[27] Drane, *Becoming a Good Doctor*, 165.

[28] Pellegrino, *The Philosophy of Medicine Reborn*, 271–273.

[29] Pojman, *Ethical Theory*, 414–415.

[30] Pellegrino and Thomasma, *The Virtues in Medical Practice*, 192–194.

[31] Pellegrino, *The Philosophy of Medicine Reborn*, 277.

[32] Excerpted from Robert Orr, "Clinical Ethics Consultation," from his class "Clinical Issues in Bioethics," BE779, at Trinity International University, Bannockburn, IL.